

**THE CITY OF OKLAHOMA CITY
OFFICE OF
THE MUNICIPAL COUNSELOR**

Council Agenda
Item No. XI. N
5/23/2023

TO: Mayor and City Council

FROM: Kenneth Jordan, Municipal Counselor

1. Resolution authorizing and directing the Municipal Counselor to enter into an agreed settlement and journal entry of judgment in the Cleveland County District Court Case styled: *The City of Oklahoma City v. John A. Pugsley and Pamela J. Pugsley, as husband and wife*, Cleveland County District Court Case No. CJ-2021-752;

AND/OR

2. Enter into executive session on advice of the Municipal Counselor to receive confidential communications from its attorney concerning the above pending litigation, as authorized by 25 O.S. (2022 Supp.) §307(B)(4), because disclosure would seriously impair the ability of the public body to conduct the pending litigation in the public interest.

Background:

On August 19, 2021, the City filed the above-captioned condemnation case in the District Court of Cleveland County against John A. Pugsley and Pamela J. Pugsley, as husband and wife, Defendants, to acquire a permanent easement for purposes of constructing and maintaining public street and utilities purposes and uses incidental thereto, for Oklahoma City Street Improvement Project TC-0520 located at SW 149th Street and South Pennsylvania Avenue. The City is represented by Assistant Municipal Counselor, Susan Randall. The Defendants are represented by David Box, of the firm Williams, Box, Forshee and Bullard, P.C.

On March 8, 2022, the Court-appointed Commissioners filed their Report assessing damages for the taking of the permanent easement in the amount of \$200,800. The Defendants filed a Demand for Jury Trial contesting the amount of the Commissioners' Report.

In the event the jury verdict exceeds the Commissioners' Award by 10%, the City would be liable for the Defendants' costs and attorney fees.

The parties have reached an agreed settlement of this case for a total sum of \$225,000 (an additional \$24,200 above the Commissioners' Award) for the value of the property taken, including costs, expenses and attorney fees.

If Council agrees to the settlement proposal, a resolution authorizing and directing the Municipal Counselor to enter into an agreed settlement and journal entry of judgment for a total amount of \$225,000 is submitted herewith for the Council's approval. The settlement and journal entry of judgment will reflect that \$200,800 of such settlement has been previously paid by the City by deposit of the Commissioners' Award, and that the additional amount of \$24,200 due on the settlement would be entered as a judgment against the City pursuant to 62 O.S. § 365.5.

If Council should desire more information as to the merits of this case, it is the recommendation of this office that Council retire into executive session.